Supreme Court of the United States.

No. 435.—October Term, 1906.

Robert M. Green, Plaintiff in Error, *vs.* Chicago, Burlington and Quincy Railway Company. } In error to the Circuit Court of the United States for the Eastern District of Pennsylvania.

[April 29, 1907.]

Mr. Justice Moody delivered the opinion of the Court.

The plaintiff in error, a citizen of Pennsylvania, brought an action in the Circuit Court for the Eastern District of Pennsylvania to recover damages for personal injuries alleged to have been incurred in Colorado through the negligence of the defendant, against the defendant in error, a corporation created by the laws of the State of Iowa, and, therefore, for jurisdictional purposes, a citizen of that State. The return upon the writ shows a service "on Chicago, Burlington and Quincy Railway Company, a corporation which is doing business in the Eastern District of Pennsylvania . . . by giving a true and attested copy to Harry E. Heller, agent of said corporation." The defendant appeared specially for the purpose of disputing jurisdiction. The Circuit Court held that the service was insufficient, because the defendant was not doing business within the district, and that decision is brought here by writ of error for review.

The jurisdiction of the Circuit Court in this case was founded solely upon the fact that the parties were citizens of different States. In such a case the suit may be brought in the district of the residence of either. Act of March 3, 1875, chap. 137, § 1, as corrected by act of August 13, 1888, chap. 866, § 1, (25 Stat. 434.) But to obtain jurisdiction there must be service, and the service was upon the corporation in the Eastern District of Pennsylvania. Its validity depends upon whether the corporation was doing business in that district in such a manner and to such an extent as to warrant the inference that through its agents it was present there.

The eastern point of the defendant's line of railroad was at Chicago, whence its tracks extended westward. The business for which it was incorporated was the carriage of freight and passengers, and the construc-

tion, maintenance and operation of a railroad for that purpose. As incidental and collateral to that business it was proper, and, according to the business methods generally pursued, probably essential, that freight and passenger traffic should be solicited in other parts of the country than those through which the defendant's tracks ran. For the purpose of conducting this incidental business the defendant employed Mr. Heller, hired an office for him in Philadelphia, designated him as district freight and passenger agent, and in many ways advertised to the public these facts. The business of the agent was to solicit and procure passengers and freight to be transported over the defendant's line. For conducting this business several clerks and various travelling passenger and freight agents were employed, who reported to the agent and acted under his direction. He sold no tickets and received no payments for transportation of freight. When a prospective passenger desired a ticket, and applied to the agent for one, the agent took the applicant's money and procured from one of the railroads running west from Philadelphia a ticket for Chicago and a prepaid order, which gave to the applicant, upon his arrival at Chicago, the right to receive from the Chicago, Burlington and Quincy Railroad a ticket over that road. Occasionally he sold to railroad employes, who already had tickets over intermediate lines, orders for reduced rates over the defendant's lines. In some cases, for the convenience of shippers who had received bills of lading from the initial line for goods routed over the defendant's lines, he gave in exchange therefor bills of lading over the defendant's line. In these bills of lading it was recited that they should not be in force until the freight had been actually received by the defendant.

The question here is whether service upon the agent was sufficient, and one element of its sufficiency is whether the facts show that the defendant corporation was doing business within the district. It is obvious that the defendant was doing there a considerable business of a certain kind, although there was no carriage of freight or passengers. In support of his contention that the defendant was doing business within the district in such a sense that it was liable to service there, the plaintiff cites *Denver &c. Railroad Co.* v. *Roller*, 100 Fed. Rep. 738, and *Tuchband* v. *Chicago &c. Railroad*, 115 N. Y. 437. The facts in those cases were similar to those in the present case. But in both cases the action was brought in the State courts, and the question was of the interpretation of a State statute and the jurisdiction of the State courts.

The business shown in this case was in substance nothing more than that of solicitation. Without undertaking to formulate any general rule defining what transactions will constitute "doing business" in the sense

that liability to service is incurred, we think that this is not enough to bring the defendant within the district so that process can be served upon it. This view accords with several decisions in the lower Federal courts. *Maxwell* v. *Atchison &c. Railroad*, 34 Fed. Rep. 286; *Fairbank & Co.* v. *Cincinnati &c. Railroad*, 54 Fed. Rep. 420; *Union Associated Press* v. *Times Star Co.*, 84 Fed. Rep. 419; *Earle* v. *Chesapeake &c. Railroad*, 127 Fed. Rep. 235.

The judgment of the Circuit Court is

Affirmed.

True copy.

Test:

Clerk Supreme Court U. S.